

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

**ORIGINAL
FILE**

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RM7981 FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
Petition for Rulemaking of)
Utilities Telecommunications)
Council for Amendment of Parts 2,)
21 and 94 of the Commission's Rules)
to Accommodate Private Microwave)
Systems in the 1.71-1.85 GHz Band)
and in Bands Above 3 GHz)

To: The Commission

**COMMENTS ON UTC PETITION
FOR RULEMAKING**

THE ASSOCIATION OF AMERICAN RAILROADS ("AAR") and the LARGE PUBLIC POWER COUNCIL ("LPPC"), by their attorneys and pursuant to Section 1.405 of the Commission's Rules, hereby submit initial Comments in response to the Petition for Rulemaking filed by the Utilities Telecommunications Council ("UTC") on March 31, 1992.^{1/}

AAR's and LPPC's member companies include railroads and electric utilities that operate private fixed microwave facilities on frequencies between 1.85 GHz and 2.20 GHz ("Commercial 2 GHz Band"). The Commission has proposed displacing these companies' facilities from the Commercial 2 GHz Band in order to create a spectrum reserve for emerging technologies.^{2/}

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1/ These Comments are filed in accordance with ~~FCC Public~~ Notice No. 22934, released May 1, 1992.

2/ Notice of Proposed Rulemaking, 7 FCC Rcd 1542 (1992).

As will be discussed in Comments AAR and LPPC will file June 5, 1992, in ET Docket No. 92-9, the Commission's proposal to reallocate spectrum in the Commercial 2 GHz Band now used by the railroads, electric utilities and other industries for vital safety operations is premature and not in the public interest. The Commission should not reallocate any spectrum for an emerging technologies reserve until it guarantees that adequate alternative spectrum is available for displaced microwave users, that displaced users will be fully compensated for converting facilities to other spectrum or media, and that the spectrum reallocation plan serves the public interest.

Accordingly, AAR and LPPC support UTC's Petition to the extent that it encourages the Commission to immediately consider making federal government spectrum available for emerging technologies and/or as a home for displaced users of the Commercial 2 GHz Band. AAR, LPPC and the American Petroleum Institute ("API") have petitioned the Commission to immediately suspend its spectrum reallocation proposal until it fully investigates this alternative.^{3/} As discussed in that Petition, this approach would achieve the Commission's goal of rapidly deploying emerging technologies with minimal impact on existing licensees. NPRM at paras. 6, 9, 27.

AAR and LPPC continue to support efforts to make federal spectrum available before reallocating frequencies used by the railroads, utilities and other vital industries. Making federal

3/ See Petition to Suspend Proceeding, ET Docket No. 92-9 (filed April 10, 1992).

government spectrum available could eliminate the myriad problems facing the Commission in relocating incumbent users of the Commercial 2 Band, thereby rendering moot the numerous technical questions highlighted in UTC's Petition regarding the suitability of the bands proposed by the Commission as replacements for the Commercial 2 GHz Band.

Respectfully submitted,

THE ASSOCIATION OF AMERICAN RAILROADS

By



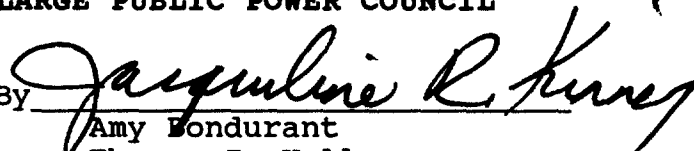
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June 1, 1992

CERTIFICATE OF SERVICE

I, Jaime Y.W. Bierds, a secretary for the law firm Verner, Liipfert, Bernhard, McPherson and Hand, Chartered, do hereby certify that a true and correct copy of the foregoing "Comments on UTC's Petition for Rule Making" was mailed first-class, postage prepaid, this 1st day of June, 1992, to the following:

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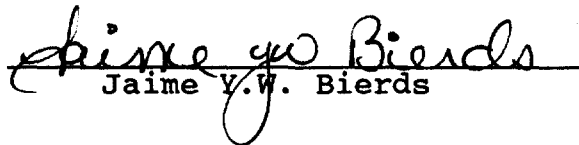
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